

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Pat Wood, III, Chairman;
Nora Mead Brownell, Joseph T. Kelliher,
and Suedeem G. Kelly.

Pacific Gas and Electric Company

Docket Nos. ER05-82-000 and
EL05-35-000

Pacific Gas and Electric Company

Docket Nos. ER03-409-000 and
ER03-666-000

ORDER ACCEPTING CHANGES TO TRANSMISSION OWNER TARIFF,
INSTITUTING SECTION 206 PROCEEDING, AND CONSOLIDATING DOCKETS

(Issued December 13, 2004)

1. In this order, we accept annual updates and rate revisions to two balancing accounts under Pacific Gas and Electric Company's (PG&E) Transmission Owner Tariff (TO Tariff), effective January 1, 2005. In addition, because the allocation of Reliability Services (RS) costs to standby service used here is inextricably related to another proceeding currently pending before the Commission where that allocation is at issue,¹ we will institute a proceeding under section 206 of the Federal Power Act (FPA) in Docket No. EL05-35-000, and consolidate it with that other proceeding.² This order benefits customers by ensuring that the rates, terms, and conditions of the TO Tariff are just and reasonable.

Background

2. PG&E's TO Tariff specifies the rates and charges for transmission access over the California Independent System Operator Corporation (CAISO) Controlled Grid. A component of these charges is the Transmission Revenue Balancing Account Adjustment

¹ Namely, Docket Nos. ER03-409-000 and ER03-666-000. *See Pacific Gas and Electric Co.*, 103 FERC ¶ 61,240 (2003) (establishing hearing procedures and consolidating proceedings).

² 16 U.S.C. § 824e (2000).

(TRBAA), a ratemaking mechanism designed to ensure that, among other things, all Transmission Revenue Credits flow through to TO Tariff retail and wholesale transmission customers.

3. The Reliability Services Balancing Account (RSBA) is designed to recover CAISO costs associated with Reliability Must Run Contracts and Out of Market dispatch calls that are billed to a Participating Transmission Owner.³

4. Generally, the Transmission Revenue Balancing Account (TRBA) and RSBA each reflect: (1) the principal balance at the end of the fiscal year preceding a January billing cycle, (2) a forecast of annual billings from CAISO, and (3) the interest balance on the account.

The Filing

5. On October 28, 2004, PG&E proposed several modifications to its TO Tariff related to the TRBAA and RSBA.

Transmission Revenue Balancing Account Adjustment

6. In the instant filing PG&E proposes to update the TRBAA to reflect: (1) its annual revision of the TRBA for retail service rendered on and after January 1, 2005; and (2) a revised High and Low Voltage Transmission Revenue Requirement (TRR).⁴

7. PG&E further proposes to include a new charge that it now receives from CAISO as a Participating Transmission Owner (Participating TO), identified as Charge Type 575 – Settlements, Metering and Client Relations (Settlements Charge), in the definition of Transmission Revenue Credit.⁵ As proposed by PG&E, this \$500 charge to recover a portion of CAISO's costs associated with maintaining customer accounts and servicing

³ See CAISO Tariff sections 5.2 (Reliability Services) and 11.2.4.2.1 (Out of Market dispatch billing information and procedures).

⁴ CAISO Tariff section 7.1. For purposes of the calculation of Access Charges to the CAISO Controlled Grid, PG&E has allocated its TRR and calculation of the TRBAA by High and Low Voltage.

⁵ TO Tariff section 3.104 (Definition of Transmission Revenue Credit).

activities would be assessed monthly on a Participating TO that has trade settlement activity during that month.⁶ PG&E also proposes to revise the TRBAA calculation to include a Franchise Fees and Uncollectible (FFU) adjustment.⁷

8. The total revenue requirement used in developing the new TRBAA rate is comprised of the balance in the TRBA as of September 30, 2004, which is \$50,097,568; the interest on that amount of \$1,172,554; the forecast TRBA amount of a negative \$65,717,767; and an FFU adjustment of a negative \$138,726. Overall, the 2005 total forecast TRBAA revenue requirement is a negative \$14,586,371, as compared to last year's revenue requirement of negative \$40,644,693. This results in a proposed TRBAA rate of negative \$0.00018 per kWh, an increase in the TO Tariff rate as compared to the present rate of negative \$0.00052 per kWh.

Reliability Services Balancing Account

9. In the instant filing, PG&E describes the RSBA rates, which consist of three components:⁸ (1) the principal or Retail Carryover as of October 31, 2004; (2) a forecast of 2005 reliability services costs in the coming year by CAISO; and (3) the 2004 Retail Carryover Interest amount associated with the balance. The resultant rate is determined by dividing these components by either the metered load or a forecast of deliveries.

10. To facilitate the filing of the annual RSBA update and to coincide with the TRBAA, PG&E proposes two modifications to the TO Tariff language related to the RSBA: (1) revise the RSBA formula in TO Tariff section 5.6 to include the FFU adjustment; (2) adjust the relevant 12-month period from the current end date of October 31 to September 30.

11. The total revenue requirement of \$482,231,669 used in the development of the retail 2005 RS Rates consists of (1) the retail carryover of \$182,989,279, (2) the total forecasted 2005 RS costs of \$290,093,974, (3) the retail carryover interest of \$4,562,066, and (4) the FFU adjustment of \$4,586,350.

⁶ PG&E proposes to pass through CAISO's assessment of charges to PG&E in its role as a Participating TO, but not CAISO's assessment of charges to PG&E in its role as a Scheduling Coordinator.

⁷ TO Tariff section 5.5 (TRBAA). PG&E states that the FFU adjustment factors are based on a California Public Utilities Commission (California Commission) May 27, 2004 decision (D.04-05-055) approving settlements in PG&E's General Rate Case.

⁸ PG&E filing at 4; TO Tariff section 5.6.

Notice and Responsive Pleadings

12. Notice of PG&E's filing was published in the *Federal Register*, 69 Fed. Reg. 65,168 (2004), with protests and interventions due on or before November 18, 2004. On November 4, 2004, the Cogeneration Association of California (CAC) and the Energy Producers and Users Coalition (EPUC) (collectively, CAC/EPUC) filed a timely, unopposed motion to intervene and protest. On November 18, 2004, California Department of Water Resources State Water Project (DWR) filed a timely, unopposed motion to intervene and protest. Also on November 18, 2004, CAISO; Sacramento Municipal Utility District; Southern Edison Company; Northern California Power Agency; Cities of Redding and Santa Clara, California, and M-S-R Public Power Agency; Modesto Irrigation District; and Transmission Agency of Northern California filed timely, unopposed motions to intervene. On November 19, 2004, PG&E filed an answer to CAC/EPUC's protest, and the California Commission filed a motion to intervene out-of-time. On December 3, 2004, PG&E filed an answer to DWR's protest.

13. In their protest, CAC/EPUC argue that PG&E's allocation of RS costs to standby service customers based on their contract demand, as discussed further below, has no relation to how these costs are incurred, differs from the proposed 12 coincident peak allocation of RS costs to all other customer classes, and is unduly discriminatory, unjust, and unreasonable. In its answer, PG&E counters that the rate design used in the instant filing is the same as the rate design accepted by the Commission in Opinion Nos. 459 and 459-A,⁹ and that a section 206 complaint should be required for any proposed revision to the rate design.

14. In its protest, DWR argues that, since DWR serves as its own Scheduling Coordinator and is charged directly by CAISO, PG&E should not be allowed to pass through to DWR (and other similarly-situated customers with their own Scheduling Coordinator designation) any of the Settlements Charge assessed by CAISO against PG&E in its role as Scheduling Coordinator. In its answer, PG&E explains that PG&E is not proposing to pass through CAISO's assessment of charges to PG&E in its role as a Scheduling Coordinator, but rather PG&E proposes to pass through CAISO's assessment of charges to PG&E in its role as a Participating TO.

⁹ *Pacific Gas and Electric Co.*, Opinion No. 459, 100 FERC ¶ 61,160, *order on reh'g*, Opinion No. 459-A, 101 FERC ¶ 61,139 (2002).

Discussion

Procedural Matters

15. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.214 (2004), the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding. We will grant the California Commission's unopposed motion to intervene out-of-time, given its interest, the early stage of this proceeding, and the absence of undue prejudice or delay.

16. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2004), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We will accept PG&E's answers because they have provided information that assisted us in our decision-making process.

Commission Determination

17. We find that PG&E's proposed tariff sheets that reflect the revisions to its TRBAA and RSBA and corresponding rates appear to be just, reasonable, and consistent with the TO Tariff rate methodology and with the Commission's findings in Opinion Nos. 459 and 459-A, and have not been shown to be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Therefore, we will accept the instant filing, effective January 1, 2005.

18. In an order issued in March 2003, the Commission accepted for filing, suspended, and set for hearing proposed transmission rates under PG&E's TO Tariff.¹⁰ The contested issue in the instant filing, the appropriate methodology to allocate RS costs to standby service, is an issue that is currently pending before the Commission in PG&E's TO6 proceeding. In that proceeding, the proposed allocation methodology is related to an increase in transmission rates; however, in the instant filing, the allocation methodology is related to the allocation of RS costs. While we recognize that the type of service for which recovery is sought in PG&E's TO6 proceeding differs from the type of service in the instant proceeding, we find that the contested issue, i.e., the appropriate allocation methodology for standby service, is the same in each of the proceedings.

19. Accordingly, we will institute an investigation under section 206 of the FPA with respect to the justness and reasonableness of the allocation methodology for standby service. In cases where the Commission institutes a section 206 investigation on its own motion, section 206(b) requires the Commission to establish a refund effective date that is no earlier than 60 days after publication of the notice of initiation of the investigation, but

¹⁰ See *Pacific Gas and Electric Co.*, 102 FERC ¶ 61,270 (2003) (TO6 proceeding).

no later than five months subsequent to the expiration of the 60-day period. Consistent with *Canal Electric Company*,¹¹ we will establish the refund effective date at the earliest date possible in order to provide maximum protection to customers, i.e., 60 days from the date notice of the initiation of the investigation in Docket No. EL05-35-000 is published in the *Federal Register*.

20. Section 206(b) also requires that, if the Commission has not rendered a final decision by the refund effective date or by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to section 206, whichever is earlier, the Commission shall state the reasons why it has failed to do so and shall make its best estimate as to when it reasonably expects to make such a decision. To implement this requirement, we will direct the presiding judge to provide a report to the Commission at least 15 days before the refund effective date in the event the presiding judge has not by that date: (1) certified to the Commission a settlement which, if approved, would dispose of the proceeding; or (2) issued an Initial Decision. The presiding judge's report, if required, shall advise the Commission as to the status of the investigation and provide a best estimate of the expected date of certification of a settlement or issuance of an Initial Decision.

21. Finally, because there are common issues of law and fact, we shall consolidate Docket No. EL05-35-000 with Docket Nos. ER03-409-000 and ER03-666-000 for purposes of hearing and decision. The judge previously designated to preside in the latter dockets shall determine whether and what additional process may be necessary to accommodate the consolidation of Docket No. EL05-35-000.

The Commission orders:

(A) PG&E's revised TO Tariff pages, as designated in the footnote below, are hereby accepted for filing, to become effective January 1, 2005, as discussed in the body of this order.¹²

¹¹ 46 FERC ¶ 61,153, *reh'g denied*, 47 FERC ¶ 61,275 (1989).

¹² First Revised Sheet Nos. 27, 29-31, Superseding Original Sheet Nos. 27, 29-31; Second Revised Sheet No. 23, Superseding First Revised Sheet No. 23; Fourth Revised Sheet Nos. 83-93, Superseding Third Revised Sheet Nos. 83-93; Sixth Revised Sheet No. 57, Superseding Fifth Revised Sheet No. 57; Tenth Revised Sheet Nos. 58 and 59, Superseding Ninth Revised Sheet Nos. 58 and 59; and Eleventh Revised Sheet No. 56, Superseding Tenth Revised Sheet No. 56.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the FPA, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and regulations under the FPA (18 C.F.R. Chapter I), an investigation is hereby instituted in Docket No. EL05-35-000 concerning the methodology used to allocate RS costs to standby service, as discussed in the body of this order.

(C) The Secretary shall promptly publish a notice of the Commission's initiation of the investigation under section 206 of the FPA in Docket No. EL05-35-000 in the *Federal Register*.

(D) The refund effective date in Docket No. EL05-35-000, established pursuant to section 206(b) of the FPA, will be 60 days following publication in the *Federal Register* of the notice discussed in Ordering Paragraph (C) above.

(E) Docket Nos. ER03-409-000, ER03-666-000, and EL05-35-000 are hereby consolidated for purposes of hearing and decision.

(F) The judge previously designated to preside in Docket Nos. ER03-409-000 and ER03-666-000 shall determine the procedures best suited to accommodate the consolidation with Docket No. EL05-35-000, including whether and what additional process may be necessary to accommodate the consolidation.

(G) The presiding administrative law judge shall advise the Commission, no later than 15 days prior to the refund effective date established in Docket No. EL05-35-000, in the event that the presiding judge has not by that date certified to the Commission a settlement, which, if accepted, would dispose of the proceeding, or issued an initial decision, as to the status of the proceeding and a best estimate when the proceeding will be disposed of by the presiding judge.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.